

DOD: 7/5/1999		DALE BOLDEN , Administrator of the Estate of Odell Moultrie, surviving spouse, is petitioner. No other proceedings Decedent died intestate. Petitioner states all of the property in the petition was acquired during the marriage while the parties were legally married and domiciled in this state. Petitioner requests court confirmation that ½ interest in mineral, oil, gas and hydrocarbons rights in real property located in Fresno County belongs to her and ½ interest passes to her.	NEEDS/PROBLEMS/COMMENTS: 1. Petition does not allege that the property was acquired using community funds. If the property was acquired by gift or inheritance it would not be considered community property even though it was acquired during the marriage.	
Cont. from				
	Aff.Sub.Wit.			
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	Inventory			
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✓	Notice of Hrg			
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	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: KT Reviewed on: 5/20/2013 Updates: Recommendation: File 1 – Moultrie	

(1) First and Final Account and Report of Successor Administrator and (2) Petition for Allowance of Ordinary and Extraordinary Commissions and Fees and (3) for Distribution [Prob. C. 9202; 10800; 10810; 10951; 11600; 11850(a)]

DOD: 7-14-05		PUBLIC ADMINISTRATOR , Successor Administrator with Will Annexed, is Petitioner. Account period: 4-26-10 through 2-8-13 Accounting: \$180,000.00 Beginning POH: \$180,000.00 Ending POH: \$180,000.00 (real property) Public Administrator: \$2,000.00 (less than statutory) Public Administrator (Extraordinary): \$248.00 for preparation of final tax return Attorney: \$2,000.00 (less than statutory) Closing: \$1,000.00 Costs: \$25.50 certification Petitioner states the POH consists of real property only. Beneficiary Elizabeth Narajo has requested the option of paying all fees and costs so that the real property can be distributed to her. Petitioner has agreed to this arrangement. Distribution pursuant to Decedent's will and disclaimers of interest by Joe Delgadillo, Jr., and George Ortega, Jr.: Elizabeth Narajo: Entire estate (real property located at 9773 S. Shaft, Selma	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 4-10-13. As of 5-20-13, nothing further has been filed. The items were previously noted:</u> 1. I&A filed 4-7-10 is incomplete at #5 (Property Tax Certificate Re Revenue and Taxation Code §480). Need verified statement regarding #5. 2. Decedent's will devises the estate one-third each to Joe E. Delgadillo, Jr., George Ortega, Jr., and Elizabeth Naranjo; however, Joe George each signed a <u>Disclaimer</u> of their interest in the house, which is the only asset of the estate. Pursuant to Probate Code §282, the effect of a disclaimer is that the disclaimant's interest passes as if he had predeceased the decedent. However, Petitioner asserts that Probate Code §21111(b) is applicable in that the disclaimants' interest is a "failed transfer" due to the disclaimer, and as such would pass to the other transferee rather than their heirs. The Court may require clarification with reference to Probate Code §282. 3. The attached disclaimers are copies. Need originals. <u>Note: The I&A and the disclaimers appear to have been prepared by Attorney Brian Austin of Madera, who previously represented Elizabeth Naranjo, the former Executor.</u>
Cont. from 041013			
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	Conf. Screen		
✓	Letters 5-21-10		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
✓	FTB Notice		

Atty Moisenbocker, Gary L (for Petitioner Diane Mosolf)

Atty Sharbaugh, Catherine (court appointed for Conservatee)

(1) First Account and Report of Conservator and (2) Petition for Allowance of Fees to Conservator and Allowance of Attorney Fees

Age: 95 years		DIANE MOSOLF , daughter/conservator, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 2/17/2012 – 2/28/2013	1. Need original escrow statements for sale of real property. Probate Code §2620(c)(4).
Cont. from		Accounting - \$1,282,786.51	Note: If the petition is granted, a status hearing will be set as follows:
		Beginning POH - \$1,153,671.46	
Aff.Sub.Wit.		Ending POH - \$1,185,663.02	• Friday, April 17, 2015 at 9:00 a.m. in Department 303, for the filing of the second account.
<input checked="" type="checkbox"/> Verified			
Inventory		Conservator - \$1,809.00 (per itemization and declaration, 90.45 hours @ \$20/hr)	Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.
PTC			
Not.Cred.		Attorney - \$17,180.00 (per itemization and declaration for 77.4 hours @ \$250 per hour for attorney time and \$110 per hour for paralegal time)	• Friday, April 17, 2015 at 9:00 a.m. in Department 303, for the filing of the second account.
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail W/		Current bond is \$260,745.70 and is sufficient.	Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.
Aff.Pub.			
Sp.Ntc.		Petitioner prays for an Order:	1. Approving, allowing and settling the first account and report of conservator as filed;
Pers.Serv.			
Conf. Screen		2. Authorizing Petitioner to pay herself \$1,809.00 for services rendered as conservator of the estate;	2. Authorizing Petitioner to pay her attorney \$17,180.00 for legal services rendered.
Letters			
Duties/Supp			
Objections			
Video Receipt			
<input checked="" type="checkbox"/> CI Report			
<input checked="" type="checkbox"/> 2620(c)			
<input checked="" type="checkbox"/> Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Reviewed by: KT

Reviewed on: 5/20/2013

Updates:

Recommendation:

File 3 – Fratis

(1) First and Final Account and Report of Successor Trustee and (2) Petition for Allowance of Compensation to Trustee and Attorney and (3) for Distribution

			PUBLIC ADMINISTRATOR , Trustee, is petitioner.	NEEDS/PROBLEMS/COMMENTS: Continued from 4/24/2013. 1. Petition proposes to distribute 100% of the property on hand to the Deborah Ann Schroer Special Needs Trust. However the Trust Instrument devises 80% of the proceeds from the sale of the real property to the Settlor's son, Dean Scott Schroer, if he survives. Settlor died on August 11, 2003 and her son, Dean died on May 18, 2009. Because Dean survived the Settlor his estate would be entitled to 80% of the property on hand. – Declaration of Deborah Schroer filed on 4/12/13 states when her brother Dean died in 2009, he was 54 years old. For most of his life he was chronically unemployed or under employed due to his mental health issues. He never married and he never had any children. Ms. Schroer states to her knowledge her brother never qualified for social security disability or for MediCal.
			Account period: 5/1/12 – 10/19/12	
Cont. from 032013, 041713, 042413			Accounting - \$90,000.00	
Aff.Sub.Wit.			Beginning POH - \$90,000.00	
✓	Verified		Ending POH - \$73,776.74	
	Inventory		Trustee - \$3,600.00 (statutory)	
	PTC		Trustee x/o - \$1,248.00 (for sale of real property and preparation of taxes)	
	Not.Cred.		Attorney - \$3,600.00 (statutory)	
✓	Notice of Hrg		Bond - \$112.50 (o.k.)	
✓	Aff.Mail	W/	Court fees - \$395.00 (filing fee)	
	Aff.Pub.		Petitioner prays for an Order:	
	Sp.Ntc.		1. Approving, allowing and settling the first and final account;	
	Pers.Serv.		2. Authorizing Petitioner and his attorney \$3,600.00 each as compensation for their services;	
	Conf. Screen		3. Petitioner be allowed extraordinary commissions of \$1,248.00;	
	Letters		4. Authorizing bond fee of \$112.50 and filing fee of \$395.00	
	Duties/Supp		5. Authorizing distribution of the remaining property on hand consisting of \$64,386.24 to Bruce Bickel as Trustee of the Deborah Ann Schroer Special Needs Trust.	
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: KT
Reviewed on: 4/22/13
Updates:
Recommendation:
File 4 - Schroer

- 2.** Need declaration of trustee, Bruce Bickel, pursuant to Local Rule 7.12.5. – **Declaration of Deborah Ann Schroer** nominating Bruce Bickel as Trustee filed on 4/12/13. - It is unclear if the Special Needs Trust for the benefit of Deborah is currently in existence or if the terms of this trust establishes the SNT upon distribution. If SNT is in existence will need the information required by Local Rule 7.12.5 such as the establishment date of the trust, the tax ID number, that the trust is in full force and effect and that the Trustee has a copy of the Trust in his/her possession. If this Trust is creating the Special Needs Trust for the benefit of Deborah Ann Schroer then the terms of the trust should be included in the order. In addition will need an acceptance by Bruce Bickel to act as trustee of the Trust.

**Petition for Probate of Will and for Letters Testamentary; Authorization to
Administer Under IAEA (Prob. C. 8002, 10450)**

DOD: 12/28/2012		DEBORAH J. SCHMALL , sister/named executor without bond, is petitioner. Full IAEA – o.k. Will dated: 02/22/1990 Residence: Fresno Publication: The Business Journal <u>Estimated value of the Estate:</u> Personal property - \$14,000.00 Real property - \$155,000.00 Total: - \$169,000.00 Probate Referee: Steven Diebert	NEEDS/PROBLEMS/COMMENTS: <u>Note: If the petition is granted status hearings will be set as follows:</u> • Friday, 10/25/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u> • Friday, 07/25/2014 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.	
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<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
Reviewed by: LV				
Reviewed on: 05/17/2013				
Updates:				
Recommendation: Submitted				
File 5 – Molina				

DOD: 12/24/2012		KENNETH POSEY, KEVIN POSEY and CODY SANDERS , sons, are petitioners.	NEEDS/PROBLEMS/COMMENTS:
		40 days since DOD.	1. Inventory and Appraisal not signed by the Attorney.
		No other proceedings	
Cont. from		I & A - \$140,000.00	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input checked="" type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	n/a	
<input type="checkbox"/>	Aff.Mail	n/a	
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<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: LV
			Reviewed on: 05/20/2013
			Updates:
			Recommendation:
			File 6 – Posey

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 13		TEMP EXPIRES 5-22-13 ERNEST MONTEZ, JR. , biological father, is Petitioner. Mother (adoptive): EVELYN DUARTE (biological maternal grandmother) - <i>Personally served 3-26-13</i> Mother (biological): ROCHELLE DUARTE Paternal grandfather: ERNEST MONTEZ, SR. - <i>Personally served 3-26-13</i> Paternal grandmother: YOLANDA MONTEZ – <i>deceased</i> Maternal grandmother: EVELYN DUARTE (also adoptive mother) Maternal grandfather: ROBERT DUARTE – <i>deceased</i> Siblings: JULLIAN DUARTE, MARIAH MONTEZ, ALEXIS MONTEZ, ERNEST MONTEZ, III - <i>Jillian personally served 3-26-13; Alexis, Mariah and Ernest consent</i> Petitioner alleges Jacob ran away from his adoptive mother's home and refuses to return. Jacob stated that he is being verbally and physically abused. Jacob is moved back and forth between his adoptive mother Evelyn's home and his aunt Veronica Casey's home. Evelyn's form of discipline is verbal insults, downgrading his natural parents, pulling hair, punching him in the face. Her ability to help him deal with his issue are not what is best for helping him mature into a responsible young man. Evelyn Duarte filed declarations on 4-4-13 and 5-16-13. Ms. Duarte disputes the allegations and states she has never abused Jacob or any other of her grandchildren or great grandchildren. Ms. Duarte provides details of family history. Letters of support are attached, and family pictures are provided. DSS to file report. Court Investigator: Julie Negrete	NEEDS/PROBLEMS/COMMENTS: <u>Note: Need DSS Report</u>
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<input checked="" type="checkbox"/> Verified			
<input type="checkbox"/> Inventory			
<input type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg			
<input type="checkbox"/> Aff.Mail			
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<input type="checkbox"/> Sp.Ntc.			
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<input checked="" type="checkbox"/> Conf. Screen			
<input checked="" type="checkbox"/> Letters			
<input checked="" type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> DSS Report	X		
<input type="checkbox"/> Clearances	X		
<input checked="" type="checkbox"/> Order			
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input checked="" type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
		Reviewed by: skc Reviewed on: 5-20-13 Updates: Recommendation: File 7 – Casey	

Michael, 2	TEMPORARY EXPIRES 05/08/13	NEEDS/PROBLEMS/COMMENTS:
Elias, 4	MARIA SYLVIA CANO , non-relative, is Petitioner.	This Page is for Elias only. Guardianship of Michael was granted to Frances Juarez on 05/08/13.
	Father: TONY LOPEZ – Consent & Waiver of Notice filed 03/08/13	
Cont. from 050813	Mother: ANGELIQUE VILLALUZ – Personally served on 04/11/13	
<input type="checkbox"/> Aff.Sub.Wit.	Paternal grandfather: MIGUEL LOPEZ	
<input checked="" type="checkbox"/> Verified	Paternal grandmother: SABINA ZAMERIPPA	
<input type="checkbox"/> Inventory	Maternal grandfather: ANTHONY FLORES	
<input type="checkbox"/> PTC	Maternal grandmother: PAULINE PICASO – Served by mail on 03/27/13	
<input type="checkbox"/> Not.Cred.	Petitioner alleges that both parents are addicted to meth and are not capable of providing a home for Elias. Petitioner states that she is Elias' godmother and has cared for him most of his life, however, he began living with her full time in September 2012. When in the care of his parents, he was subjected to their drug use. He was born addicted to meth and it was often smoked in his presence. When he first came to live with Petitioner full time, he was not speaking even though he was 4 years old. He now is carrying on conversations and is progressing well. Petitioner states that the father is in and out of jail and the mother currently has pending child abuse charges against her.	
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<input type="checkbox"/> Sp.Ntc.		
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	DSS Social Worker Keith Hodge filed a report on 05/20/13. The report states that the DSS find <u>that it is in Elias' best interest to grant the guardianship petition.</u> It is further recommended that any visitation between Elias and his parents be supervised and that neither parent should be under the influence during a visit.	
		Reviewed by: JF
		Reviewed on: 05/07/13
		Updates:
		Recommendation:
		File 8 – Chavez & Flores

Petition for Appointment of Temporary Guardianship of the Person (Prob. C. 2250)

Age: 9		GENERAL HEARING 07/10/2013		NEEDS/PROBLEMS/COMMENTS:	
		RAMONA JIMENEZ , maternal aunt is petitioner.		1. Need Notice of Hearing.	
		Father: PABLO ALEJANDRES VILLALVAZO , Declaration of Due Diligence filed 05/08/2013.		2. Need proof of personal service five (5) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice:	
Cont. from		Mother: GUADALUPE ALVARADO , Consents and Waives Notice		<ul style="list-style-type: none"> Pablo Alejandro Villalvazo (Father) – Unless the Court dispenses with notice. 	
	Aff.Sub.Wit.			Note: Declaration of Due Diligence states that the father was deported back to Mexico in 2012 and is not to return for ten years.	
✓	Verified			3. In regards to the Indian Child Inquiry the petition states that the child may have Indian ancestry. If it is discovered that the children have Native American ancestry the Notice of Child Custody Proceeding for Indian Child (Form ICWA-030), must be served together with copies of the petition and all attachments; on the child's parents, any Indian custodian; any Indian Tribe that may have a connection to the child; the Bureau of India Affairs, and possibly the U.S. Secretary of the Interior, by certified or registered U.S. Mail, return receipt requested.	
	Inventory				
	PTC				
	Not.Cred.				
	Notice of Hrg	x	Paternal Grandfather: Jose Guadalupe Villalvazo, Declaration of Due Diligence filed 05/08/2013		
	Aff.Mail		Paternal Grandmother: Josefina Alejandres, Declaration of Due Diligence filed 05/08/2013		
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	x	Maternal Grandfather: Manuel Alvarado Maternal Grandmother: Aurora Gonzalez		
✓	Conf. Screen		Petitioner states: the mother has been sentenced to eighteen months in prison and petitioner will be caring for the child until her release.		
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order				
	Aff. Posting			Reviewed by: LV	
	Status Rpt			Reviewed on: 05/20/2013	
✓	UCCJEA			Updates:	
	Citation			Recommendation:	
	FTB Notice			File 9 – Alvarado	

			<p>EILEEN SUTTERFIELD, child and co-agent pursuant to the Durable Power of Attorney, is Petitioner.</p> <p>Petitioner states this matter concerns the co-agent, Ronald Gray, lack of cooperation in regard to the Power of Attorney and therefore detrimentally affecting the Settlor's property, assets and intent behind drafting the documents.</p> <p>Petitioner alleges Lois Gray, on or about 4/8/2009, executed The Durable Power of Attorney for Management of Property and Personal Matters. Petitioner states she is aware of the terms of the POS. Based on her firsthand knowledge and having read the POS, the Petitioner contends that she and her Co-Agent were designated to pay all necessary debts including the power to sell ownership of the property.</p> <p>Lois Gray is currently residing at Cottonwood Retirement facility. The Settlor recently suffered from a stroke and is now diagnosed with dementia. The cost of living at Cottonwood is approximately \$4,720 each month with additional medical incidental costs of \$1,250.00.</p> <p>Petitioner contends that pursuant to Section 2.A.(1) the Co-Agents are capable of taking any action necessary regarding the Settlor's real and personal property. This would include the Settlor's mobile home she is no longer residing in and will not be able to reside in at any future date. To keep the vacant mobile home costs the Settlor approximately \$700.00 per month for rental of the land within a complex and insurance.</p> <p style="text-align: center;">Please see additional page</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need proof of service of the Notice of Hearing on Principal, Lois Gray. Probate Code §4544. 2. Need Order <p>For Respondent Ronald Gray:</p> <ol style="list-style-type: none"> 1. Need order on Cross Petition. 																																																																												
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="3">Cont. from 050813</td> </tr> <tr> <td style="width: 5%;"></td> <td style="width: 15%;">Aff.Sub.Wit.</td> <td style="width: 5%;"></td> </tr> <tr> <td>✓</td> <td>Verified</td> <td></td> </tr> <tr> <td></td> <td>Inventory</td> <td></td> </tr> <tr> <td></td> <td>PTC</td> <td></td> </tr> <tr> <td></td> <td>Not.Cred.</td> <td></td> </tr> <tr> <td>✓</td> <td>Notice of Hrg</td> <td></td> </tr> <tr> <td>✓</td> <td>Aff.Mail</td> <td>W/</td> </tr> <tr> <td></td> <td>Aff.Pub.</td> <td></td> </tr> <tr> <td></td> <td>Sp.Ntc.</td> <td></td> </tr> <tr> <td></td> <td>Pers.Serv.</td> <td></td> </tr> <tr> <td></td> <td>Conf. Screen</td> <td></td> </tr> <tr> <td></td> <td>Letters</td> <td></td> </tr> <tr> <td></td> <td>Duties/Supp</td> <td></td> </tr> <tr> <td>✓</td> <td>Objections</td> <td></td> </tr> <tr> <td></td> <td>Video Receipt</td> <td></td> </tr> <tr> <td></td> <td>CI Report</td> <td></td> </tr> <tr> <td></td> <td>9202</td> <td></td> </tr> <tr> <td></td> <td>Order</td> <td>X</td> </tr> <tr> <td></td> <td>Aff. Posting</td> <td></td> </tr> <tr> <td></td> <td>Status Rpt</td> <td></td> </tr> <tr> <td></td> <td>UCCJEA</td> <td></td> </tr> <tr> <td></td> <td>Citation</td> <td></td> </tr> <tr> <td></td> <td>FTB Notice</td> <td></td> </tr> </table>			Cont. from 050813				Aff.Sub.Wit.		✓	Verified			Inventory			PTC			Not.Cred.		✓	Notice of Hrg		✓	Aff.Mail	W/		Aff.Pub.			Sp.Ntc.			Pers.Serv.			Conf. Screen			Letters			Duties/Supp		✓	Objections			Video Receipt			CI Report			9202			Order	X		Aff. Posting			Status Rpt			UCCJEA			Citation			FTB Notice		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Reviewed by: KT</td> </tr> <tr> <td>Reviewed on: 5/20/13</td> </tr> <tr> <td>Updates:</td> </tr> <tr> <td>Recommendation:</td> </tr> <tr> <td>File 10 – Gray</td> </tr> </table>	Reviewed by: KT	Reviewed on: 5/20/13	Updates:	Recommendation:	File 10 – Gray
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Petitioner states she has requested of the Co-Agent, Ronald Gray, on several occasions to agree to sell the mobile home owned by the Settlor to allow for additional funds to be provided to the assisted living facility. Ronald Gray refuses to participate in the sale unless the funds are provided to a joint trust account. A trust account is not necessary as the proceeds of the sale can be directly provided to Cottonwood for the monthly expenses.

Petitioner requests the Court enter an order that:

1. Lois Gray established the Lois Gray Durable Power of Attorney, on or about April 8, 2009;
2. The Co-Agents named by the Settlor are Eileen Sutterfield and Ronald Gray;
3. Co-Agent Ronald Gray be ordered to participate in the facilitation of the sale of the mobile home owned by the Settlor;
4. For all other relief as the Court deems proper under the circumstances.

Respondent Ronald Gray's Response to Petition to Compel Agent to Act; Cross Petition to Compel Co-Agent to Account and Report filed on 5/2/13. Respondent admits some of the allegations in the petition and denies other allegations in the petition.

Wherefore, Respondent respectfully requests an order:

1. Dismissing the Petition with prejudice;
2. For costs incurred herein;
3. For any and all other relief the Court deems just and proper.

Cross Petition to Compel Co-Agent to Account and Report.

Cross Petitioner, Ronald Gray, alleges:

On 4/8/2009 Lois Gray executed a Durable Power of Attorney for Management of Property and Personal Affairs (DPOA) appointing her children, Ronald Gray (Mr. Gray) and Eileen Sutterfield (Ms. Sutterfield) as her co-agents.

In conjunction with the DPOA, Lois Gray also executed the Lois Gray Living Trust (the Trust).

The Trust estate consists of two parcels of real property and a mobile home, none of which has substantial value. The Trust has no liquid assets, but Mr. Gray is informed and believes that Lois Gray has one or more bank accounts at Chase Bank held in her name individually, from which her living expenses have been, and are being paid. Mr. Gray is further informed that Ms. Sutterfield is named as a co-owner of said account(s) solely for the purpose of facilitating the payments of Lois Gray's bills and expenses. Ms. Sutterfield has not provided Mr. Gray with copies of the monthly statements of a Chase Bank checking account belonging to Lois Gray since approximately November 2012, despite repeated requests.

Please see additional page

Recently, Ms. Sutterfield began demanding that Mr. Gray assist her in selling the mobile home to pay for Lois Gary's board and care at the assisted living facility. She also stopped providing Mr. Gray with copies of the monthly bank statements. Ms. Sutterfield has also refused Mr. Gray's request to meet to resolve the matter of how best to take care of their mother's finances. Mr. Gray suggested, for example, that he and Ms. Sutterfield establish a bank account in their capacity as co-trustees of the trust to hold all funds for the benefit of their mother. Ms. Sutterfield, however, has refused to do so and continues to refuse to provide information regarding the status of their mother's funds, which funds are now under the exclusive control of Ms. Sutterfield.

For the foregoing reasons, Mr. Gray request that the Court order Ms. Sutterfield to account and report regarding the joint bank account at Chase Bank that she shares with Lois Gray, as well as any toher account she owns with Lois Gray, for the period commencing August 1, 2012 through April 30, 2013.

Wherefore, Petitioner prays for an Order:

1. That Ms. Sutterfield account and report for the funds contained in all accounts that she owns with Lois Gray for the period commencing August 1, 2012 through April 30, 2013.
2. That Cross-Petitioner be awarded his costs incurred herein, and;
3. That the Court order any and all other relief it deems just and proper.

Supplement in Support of Cross-Petition filed on 5/16/13. Ronald Gray states that it is his belief that the funds in the Chase Bank account are the property of Mrs. Gray, and that Eileen has not deposited any of her own personal funds into said account. Accordingly pursuant to Probate Code §5301 (a), all of the funds in the account belong to Mrs. Gray.

Ronald Gray alleges Eileen has admitted that the funds in the Chase Bank account are exclusively the property of Mrs. Gray and, upon Mrs. Gray's death are to be distributed to the beneficiaries of Mrs. Gray's trust.

Since December 2012, Eileen has refused Donald's request to provide copies of the Chase Bank account statements to Ronald notwithstanding his is the co-agent of Mrs. Gray under a properly executed Durable Power of Attorney. Ronald states he met with Eileen on May 14, 2013, and again requested she provide him with copies of the statements, but Eileen continues to refuse to do so in the grounds that she is a co-owner of the account and has no obligation to share any information with Ronald. Ronald visited a branch of Chase Bank on or about 5/10/2013 , with a copy of the DPOA and requested copies of the statements, but bank personnel would not provide them.

Eileen continues to withhold information from him relative to Mrs. Gray's finances, yet demands that he agree to sell Mrs. Gray's mobile home, which is actually an asset of the Mrs. Gray's living Trust. Eileen however has been unwilling to agree to deposit the sale proceeds into a Trust account titled in the names of both Ronald and Eileen as co-Trustees. Due to Eileen's refusal to do so, as well as her refusal to share Mrs. Gray's financial information with him, Ronald has not agreed to the sale of the mobile home.

Age: 84	TEMP GRANTED EX PARTE EXPIRES 5-22-13	NEEDS/PROBLEMS/COMMENTS:
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	X	
Aff.Mail	X	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.	X	
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
✓ CI Report		
9202		
Order	<p>GENERAL HEARING 6-19-13</p> <p>PUBLIC GUARDIAN is petitioner and requests appointment as Temporary Conservator of the Person and Estate with additional powers during the temporary conservatorship to change the residence of the proposed Conservatee to a living arrangement more appropriate for the level of care recommended by her physician, and to make medical decisions on her behalf.</p> <p>A capacity declaration was filed 5-9-13.</p> <p>Petitioner states Ms. Westenrider lives independently in her own apartment. Her son reported that his mother's cognitive abilities have declined significantly over the last year. Petitioner states she has not been taking her medications, and believes that she does not need them. Her son is concerned about her finances, which concern is substantiated by her bank. It appears she may be the victim of a phone scam, and her apartment complex reports that she frequently pays more than once each month and they have had to void multiple checks. Ms. Westenrider continues to drive despite hitting a car in a parking lot and leaving, apparently unaware that she had been involved in an accident. Another incident is also described.</p> <p>Court Investigator Jennifer Young filed a report on 5-15-13.</p>	<p>Court Investigator advised rights on 5-14-13.</p> <p>1. Notice of Hearing filed 5-14-13 indicates service without a copy of the temp petition as is required by Probate Code §2250(e). In addition, the Notice appears to have an old Court address (Dept. 98A, Juvenile Dependency Court, 1255 Fulton Mall). The Court may require amended notice.</p> <p>2. Need proof of service of Notice of Hearing with a copy of this temp petition on relatives at least five court days prior to the hearing per Probate Code §2250(e):</p> <ul style="list-style-type: none"> - Steven Westenrider (son) - Ann Gough (daughter) - Irene Schmitz (daughter) - Anthony Merrell (grandson) - Matthew Merrell (grandson) <p>3. Capacity declaration does not address dementia placement powers. The Court may require clarification as to Petitioner's request to change Ms> Westenrider's residence during this temp period.</p>
Aff. Posting		Reviewed by: skc
Status Rpt		Reviewed on: 5-20-13
UCCJEA		Updates: 5-21-13
Citation		Recommendation:
FTB Notice		File 11 – Westenrider

Atty Sherlock, Jason (for Jeffery Todd Hicks and Sherry Lynn Neal Parents/Objectors)
 Atty Cunningham, Nikole; Thompson, Timothy; of McCormick Barstow (for Temporary Guardians, Penny Kyle and Brian Kyle, paternal aunt and uncle)

Application for Issuance of Commission for a Deposition Subpoena for the Production of Out-of-State Business Records

Kilian age: 6 yrs DOB: 1/31/2007		TEMPORARY GUARDIANSHIP EXPIRES 6/17/2013 PENNY KYLE and BRIAN KYLE , paternal aunt and uncle and Temporary Guardians appointed ex parte on 6/8/2012 are Applicants. Temporary Letters issued on 6/11/2012; and were extended to 8/8/2012; 9/26/2012; 11/15/2012; 1/14/2013; and currently expire on 6/17/2013 . Applicants request pursuant to CA Code of Civil Procedure § 2026.010(f) for issuance by the Court of a Commission for a Deposition Subpoena for the Production of Business Records seeking out-of-state records from OPTIONS COUNSELING SERVICES OF OREGON, INC., whose domestic address is 175 W. B Street, Bld. D, Springfield, Oregon, 97477, based upon the following: <ul style="list-style-type: none"> A commission or order is required by the State of Oregon, the jurisdiction where the records are located; The Clerk of the Circuit Court of the State of Oregon for Lane County will issue the subpoena pursuant to Oregon Rules of Civil Procedure, Rule 38(C); The deponent, OPTIONS COUNSELING SERVICES OF OREGON, INC., is not a party to the action, or an officer, director, managing agent, or employee of any party; therefore, a party serving a subpoena shall use any process and procedure required and available under the laws of the state where the records are located to compel the non-party deponent to produce any document for inspection and copying (CA Code of Civ. Proc. 2026.010(c). 	NEEDS/PROBLEMS/COMMENTS: Note: Order Granting Ex Parte Application for Order Shortening Time to Hear Application for Issuance of Commission for a Deposition Subpoena for the Production of Out-of-State Business Records filed 5/15/2013 finds this matter originally set for 6/6/2013 will be taken off calendar for that date, and will be heard on 5/22/2013. Note for background: At the hearing for appointment of Guardian, the parents, JEFFREY TODD HICKS , father, and SHERRY LYNN NEAL , mother, objected and the matter was set for trial. Minute Order dated 1/14/2013 from the Settlement Conference states the parties enter into an oral stipulation as fully set forth. Counsel is directed to prepare the stipulation. Parties agreed to participate in mediation on 1/15/13 at 10:00 a.m. Matter set for Status Hearing/Court Trial on 6/17/13 . ~Please see additional page~
Aclea age: 6 yrs DOB: 1/31/2007			
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	N/A	
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

~Please see additional page~

Declaration of Nikole E. Cunningham attached to the Application states:

- This *Declaration* is made in support of Petitioners' Application for Issuance of a Commission from this Court for a subpoena seeking the business records of **OPTIONS COUNSELING SERVICES OF OREGON, INC.**, relating to this matter;
- She is informed these records are located outside of the State of California and are for use in California at trial in the above-entitled matter;
- As stated in the *Order After Mandatory Settlement Conference* dated 2/21/2013 (*copy attached*), the subject documents relate to Jeffrey Hick's ongoing mental health issues and medications and their impact on his ability to provide a safe and stable environment for his minor children;
- It is necessary that a commission be issued for a foreign subpoena because the documents in the possession of **OPTIONS COUNSELING SERVICES OF OREGON, INC.**, are necessary and pertinent to prove the claims of the Petitioners, are in the sole care, custody, and control of the witness, and are not otherwise reasonably accessible to the counsel for Petitioners;
- Under the laws of the State of Oregon, where the records are located, the production of the records can only be compelled if such commission or order is issued under the seal of the above-entitled Court (Oregon Rules of Civil Procedure, Rule 38 (c).)

Order After Mandatory Settlement Conference dated 2/21/2013 finds, in pertinent part, that Jeffrey Hicks is to provide information to the Court and all parties regarding his mental health, including but not limited to, current diagnoses, prescribed medications, and treatment programs. Mr. Hicks is to attend psychological or psychiatric counseling to address issues relating to this mental health issues, and the treatment shall also include and address issues relating to anger management. Mr. Hicks also agrees to continue taking any medications prescribed to him relating to his mental health issues.

Exhibit A contains a copy of the Commission for A Deposition Subpoena for the Production of Out-of-State Business Records, which states in substance as follows:

To Respondents Jeffrey Hicks and Sherry Neal, and to Jason Sherlock, their Attorney of Record, it is hereby ordered that a Commission out of and under the seal of this Court, directed to the Clerk of the Court in the Circuit Court of the State of Oregon for Lane County, for issuance of a Foreign Deposition Subpoena for Production of Business Records of **OPTIONS COUNSELING SERVICES OF OREGON, INC.**, which shall be served within 30 days of issuance of this Commission. It is further ordered that All-in-1 Legal Services, Inc., in Springfield, Oregon, be empowered to serve the Foreign Deposition Subpoena for Production of Business Records on said deponent, **CUSTODIAN OF RECORDS OF OPTIONS COUNSELING SERVICES OF OREGON, INC.**, and to perform all other functions as provided in the statutes of the State of California. *[Date and signature line included for the Clerk of the Superior Court, County of Fresno. Note: Some material of the Commission should be present on the signature page.]*

Declaration of Nikole E. Cunningham in Support of Ex Parte Application in Support of Order Shortening Time filed 5/13/2013 provides the following information that the Court may wish to reference in relation to the instant Application:

- On 2/26/2013, Petitioners served written discovery on Jeffrey Hicks seeking all records referring or relating to [his] attendance at psychological or psychiatric counseling for anger management; on 4/11/2013, in response to the requests, Mr. Hicks produced a letter dated 4/10/2013 from **OPTIONS COUNSELING SERVICES OF OREGON, INC.**, (*copy attached as Exhibit B*) setting forth he was seen by a Psychiatric and Mental Health Nurse Practitioner, **CHARLES RACE**, for "medication management services" and lists his diagnoses and medications, but lacks any information as to treatment programs or counseling sought or received by Mr. Hicks; on 5/6/2013, Respondents served an additional letter purportedly from **OPTIONS** (*copy attached as Exhibit C*).

~Please see additional page~

Declaration of Nikole E. Cunningham in Support of Ex Parte Application in Support of Order Shortening Time filed 5/13/2013, continued:

- On 5/2/2013, she had a telephone conversation with Kim Ma, counsel for Jeffrey Hicks and Sherry Neal, in which she requested that Ms. Ma and her client agree to stipulate to her office containing a copy of Mr. Hick's records from **OPTIONS**, explaining that the records were necessary to confirm Mr. Hick's compliance with the Court's order, and to evaluate his progress regarding his mental health issues and anger management issues; Ms. Ma refused her request.

Ex Parte Application for Order Shortening Time, etc., filed 5/13/2013 provides the following information that the Court may wish to reference in relation to the instant Application:

- After the Settlement Conference on 1/14/2013, Respondents have only provided Petitioners with two documents pertaining to Mr. Hicks' mental health (*copies attached as Exhibits B and C*); neither letter is executed under oath and the copy at Exhibit C is not even on the **OPTIONS** letterhead; further, neither document outlines the type and frequency of the therapy that Mr. Hicks is receiving, and neither indicates whether Mr. Hicks is complying with the Court's order that he specifically obtain anger management treatment;
- Based upon the lack of documents produced by Mr. Hicks, Petitioners seek to subpoena records from Mr. Hicks' therapist in Oregon to confirm compliance with the Court's order and to determine Mr. Hicks' parental fitness.

NEEDS/PROBLEMS/COMMENTS, continued:

1. The instant *Application for Issuance of Commission for a Deposition Subpoena* is signed and verified by the Attorney; however, it is not verified by the Petitioners as Applicants pursuant to Probate Code § 1021, CA Rule of Court 7.103 and Local Rule 7.5.
2. Need proposed order, and pursuant to CA Code of Civil Proc. § 2029.390, a proposed CA Judicial Council form adopted for mandatory use on 1/1/2012: *Deposition Subpoena for Production of Business Records* (SUBP-010). (Note: It is unclear whether Petitioner must submit a proposed *Commission for a Deposition Subpoena* as was attached as *Exhibit A* to Petitioners' *Application*, as that form may be required to be issued by the clerk pursuant to the laws of the State of Oregon.)

Notes re Applicable Statutory Provisions:

- **Petitioners cite CA Code of Civil Procedure § 2026.010(f), which falls under Chapter 10: Oral Deposition Outside California, § 2026.010, Depositions in another state of the United States, providing in pertinent part:**

a) Any party may obtain discovery by taking an oral deposition, as described in Section 2025.010, in another state of the United States....

....

(d) A deposition taken under this section shall be conducted in either of the following ways:

(1) Under the supervision of a person who is authorized to administer oaths by the laws of the United States or those of the place where the examination is to be held, and who is not otherwise disqualified under Section 2025.320 and subdivisions (b) to (f), inclusive, of Section 2025.340.

(2) Before a person appointed by the court.

....

(f) On request, the clerk of the court shall issue a commission authorizing the deposition in another state or place. The commission shall request that process issue in the place where the examination is to be held, requiring attendance and enforcing the obligations of the deponents to produce documents and electronically stored information and answer questions. The commission shall be issued by the clerk to any party in any action pending in its venue without a noticed motion or court order. The commission may contain terms that are required by the foreign jurisdiction to initiate the process. If a court order is required by the foreign jurisdiction, an order for a commission may be obtained by ex parte application.

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Notes re Applicable Statutory Provisions, continued:

- Based upon the § 2026.010(f) provision under which the Petitioner's *Application* is brought, it is unclear whether this is directly on point for the instant *Application*, since the Petitioners apply for production of business records rather than oral deposition. cursory and brief review of the related statutory provisions within the CA Code of Civil Procedure results in the following provisions which may be applicable to the instant *Application* and which the Court may consider in determining whether granting the *Application* may be appropriate:
 - **CA Code of Civil Procedure, Chapter 6: Nonparty Discovery, Article 2. Procedures Applicable to All Types of Deposition Subpoenas, § 2020.210. Issuance by court clerk; alternative method of issuance; providing:**
 - (a) The clerk of the court in which the action is pending shall issue a deposition subpoena signed and sealed, but otherwise in blank, to a party requesting it, who shall fill it in before service.
 - (b) Instead of a court-issued deposition subpoena, an attorney of record for any party may sign and issue a deposition subpoena. A deposition subpoena issued under this subdivision need not be sealed. A copy may be served on the nonparty, and the attorney may retain the original.
 - **CA Code of Civil Procedure, Chapter 6: Nonparty Discovery, Article 4. Subpoena Commanding Only Production of Business Records for Copying, § 2020.410: Specificity of requests; production of business records and electronically stored information; certification by custodian; personal records pertaining to consumers; providing in pertinent part:**
 - (a) A deposition subpoena that commands only the production of business records for copying shall designate the business records to be produced either by specifically describing each individual item or by reasonably particularizing each category of item, and shall specify the form in which any electronically stored information is to be produced, if a particular form is desired.
 - (b) Notwithstanding subdivision (a), specific information identifiable only to the deponent's records system, like a policy number or the date when a consumer interacted with the witness, is not required.
 - (c) A deposition subpoena that commands only the production of business records for copying need not be accompanied by an affidavit or declaration showing good cause for the production of the business records designated in it. It shall be directed to the custodian of those records or another person qualified to certify the records. It shall command compliance in accordance with Section 2020.430[*Delivery for Copying; Requirements; Time to Deliver; Application of Evidence Code Concerning Inspection of Records*] on a date that is no earlier than 20 days after the issuance, or 15 days after the service, of the deposition subpoena, whichever date is later.

....